

**COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION I
CIVIL ACTION NO. 05-CI-00459**

COMMONWEALTH OF KENTUCKY,
OFFICE OF THE ATTORNEY GENERAL
Ex rel. Gregory D. Stumbo in his official
capacity as Attorney General of the
Commonwealth of Kentucky

PLAINTIFF

v. **DEFENDANT TREASURER JONATHAN MILLER’S
RESPONSE TO FINANCE CABINET’S MOTION
FOR SUMMARY JUDGMENT**

BOARD OF DIRECTORS FOR THE
COMMONWEALTH POSTSECONDARY
EDUCATION PREPAID TUITION TRUST
FUND, et al.

DEFENDANTS

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Defendant Kentucky State Treasurer Jonathan Miller (the “Treasurer”), in his official capacity as a board member of the Commonwealth Postsecondary Education Prepaid Tuition Trust Fund (“KAPT”), hereby submits a response to the Finance and Administration Cabinet’s Motion for Summary Judgment. The Treasurer has previously substituted counsel, as evidenced by the Notice of Substitution of Counsel filed in this action, in order to depart from the recently adopted position of the KAPT board, which now takes a neutral position with respect to this litigation.

The Treasurer’s position is aligned with that of the Attorney General as outlined in the Attorney General’s Motion for Summary Judgment, filed on October 3, 2003, and the Attorney General’s Response to the Finance and Administration Cabinet’s Motion for Summary Judgment, filed on October 14, 2005. Accordingly, the Treasurer hereby adopts and incorporates by reference these documents as his position on the constitutionality of the 2005

Budget Bill with respect to its repeal of KRS § 393.014 and the budget's bills mandate that the KAPT Board return \$13.7 million that it procured from the abandoned property fund, pursuant to power granted it under KRS § 164A.701 and KRS § 393.014.

Respectfully submitted,

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official capacity as a member of the Board of
Directors of the Commonwealth Postsecondary
Education Prepaid Tuition Trust Fund